

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**BURBRAN PIERRE, *on behalf of himself and
others similarly situated,***

Plaintiff,

-against-

CITY OF NEW YORK, ET AL.,

Defendants.

1:20-cv-05116 (ALC)

Order

ANDREW L. CARTER, JR., United States District Judge:

On November 17, 2020, the Court held a telephone pre-motion conference with the parties. ECF No. 50. The Court ordered Defendants to submit the Participation Agreement referenced in their pre-motion conference letter and for the parties to file a joint status report addressing their respective positions as to whether it was properly considered at this stage of the litigation. *Id.* Defendants filed their respective Participation Agreements on November 19, 2020 and the parties filed the requested joint status report on December 1, 2020. ECF Nos. 52, 55.

The Court concludes that the Participation Agreements are “integral” to the Complaint and will thus consider them at the motion to dismiss stage. *See, e.g., Ocampo v. 455 Hosp. LLC*, No. 14-cv-9614, 2016 WL 4926204 at *3 (S.D.N.Y. Sept. 15, 2016) (“A court may . . . consider a document ‘where the complaint relies heavily upon its terms and effect, [which] render[s] the document integral to the complaint.’”) (quoting *DiFolco v. MSNBC Cable L.L.C.*, 622 F.3d 104, 111 (2d Cir. 2010)). The Complaint relies heavily upon the effects of the Participation Agreements, which govern the relationship between the Vendor Defendants and the NYPD.

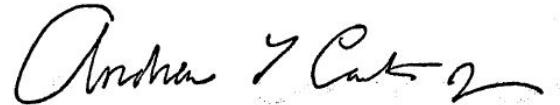
Defendants are granted leave to file a motion to dismiss according to the following briefing schedule:

- Opening brief: January 26, 2021
- Opposition brief: February 9, 2021
- Reply brief: February 16, 2021

As discussed at the November 17 conference, Defendants will have 45 pages for their opening brief, Plaintiff will have 45 pages for their opposition brief and Defendants will have 15 pages for their reply brief.

SO ORDERED.

Dated: January 5, 2021
New York, New York



ANDREW L. CARTER, JR.
United States District Judge